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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,120	02/14/2002	Pietro Padovani	B-4501 619522-7	2901

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EXAMINER

KWON, MICHAEL J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/077,120

Applicant(s)

PADOVANI, PIETRO

Examiner

Michael J. Kwon

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 10-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 10-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a non-elected Species II-IV, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 7.

Further, the examiner takes notice that claims 10-11 do not read on the embodiments of the elected Species I, but rather on the non-elected species.

Claims 10-11 sets forth a handling means including a robot, which read on the non-elected invention because robot 60 reads on the non-elected Species IV.

Applicant's election with traverse of Species I in Paper No. 7 is acknowledged. The traversal is on the ground(s) that there would not be undue burden on the examiner to examine both species. This is not found persuasive because Applicant failed to show that a coextensive search is a reason for not requiring a restriction requirement and no basis has been set forth to support the conclusion that there is even a coextensive search present.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the stacking operation of claim 1, line 14 must be shown or the feature(s) canceled from the claim(s). Fig. 4 inadequately illustrates the stacking operation because if one of ordinary reviews the stacking station 4, it would be obvious

that with the upper fixed plate 28 designed as it is, would render the stacking operation futile. No new matter should be entered.

The drawings are further objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means 50 of claim 4, line 6 and claim 6, line 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: "base and rum" as found on p. 5, line 8; usage of nonexistent word, "homothetic" as found on p. 6, line 6; and "lower face off" as found on p. 6, line 5.

Further, the disclosure is objected to because of the following informalities:

- P. 6, line 1, sets forth "arm 16" which should be -- arm 15 --.
- P. 6, line 22, sets forth "platen 27" which should be -- platen 26 --.
- P. 6, line 1, sets forth "handling device 7" which should be -- handling device 17--.

Appropriate corrections are required.

*Claim Objections*

Claim 5 is objected to because of the following informalities: "handling means are comprises"; "products (plural) which is rotatably supported rotatably"; and "can be lift and lowered" make no sense. Appropriate corrections are required.

*Claim Rejections - 35 USC § 112, 1<sup>st</sup> Paragraph*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 1 and 4, stacking moulding of thermoformed containers or lids is deemed unclear as to its operation. Neither the specification provide an enabling disclosure of the structure required to stack thermoformed containers and/or lids (or are the mouldings stacked?). No new matter is allowed.

Regarding claim 5, neither the specification nor the drawings provide an enabling disclosure required to pick up moulding of thermoformed products; rotatably support rotatably the moulding, and lift and lower the moulding onto the support structure 15, 16.

*Claim Rejections - 35 USC § 112, 2<sup>nd</sup> Paragraph*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 8 sets forth "others" which is deemed confusing. What does "others" refer to?

Claim 1, line 3 sets forth "obtaining during a thermoforming phase mouldings of lids and containers" however, the same claim refers to the mouldings of lids and containers as thermoformed products of the mouldings (line 5) and thermoformed object (line 6). Are all of these items referring to the same item? If so, how is it that the molding of a thermoformed object the same as the thermoformed object itself. This basis is contrary to the experience of the examiner in the field of rapid prototyping. The applicant must obviate this ambiguity in the rest of the claims.

Further with respect to claim 1, in particular to line 9, the limitation "one or a moulding of said container or lids in at least one support template" does not make sense because the molding and the template are like items in thermoforming technology. Is it that the template supports the molding?

Claim 1 recites the limitations "the same space arrangement" and "the thermoformed products of the same moulding" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

In regards to claim 2, the following limitation, "turning the said moulding or the single containers or lids of said mouldings, while the said thermoformed objects are lifted" makes no sense. It is unclear exactly which object is being lifted and rotated?

Claim 2 recites the limitation "said rotation phase" in line 1. There is insufficient antecedent basis for this limitation in the claim. Where is the rotation phase in the previous claim 1, to which the limitation refers?

Regarding claim 4, line 5 sets forth "stacking or working station" which suggest that the two stations serve similar functions, but line 8 sets forth "working or handling station". What is the correct grouping of the stations?

Further in regards to claim 4, line 4 states "said plant including in sequence" but according to Figure 4, the stacking station does not come between the receiving station and the means for transferring when in sequence. What is the proper sequence?

Claim 6 recites the limitation "said pick up unit" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Fabrig.

Regarding claims 1 and 3, Fabrig shows in Fig. 1, an apparatus, which would obviously perform, when used in its usual and expected fashion, the process comprising the steps of: obtaining mouldings of lids and containers; arranging the molding of the containers or lids in a support template 102; turning 2 through a predetermined angle of 180° every other object or moulding before or their transfer to a stacking station 6; and stacking of the mouldings of thermoformed containers or lids so as to offset the protrusions of a container or lid with respect to those of the next container or lid.

Regarding claim 2, Fabrig shows an apparatus which would obviously perform, when used in its usual and expected fashion, the process including a pick up rotation of a moulding from a support template 102 and turning the moulding while the objects are lifted and placing the objects rotated through the predetermined angle on another template 8 loaded with objects that have been turned.

Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Narinskii.

Regarding claim 4, Narinskii shows a plant including in sequence, a receiving station 2, stacking station 6, means 3 of transferring the intended use of containers or lids from the receiving station 2 to the stacking station 6, and the means rotates 180° every other intended use of a moulding before or during their transfer to the stacking station 6.

Regarding claim 5, handling means are comprised of support structure 2 and a head or unit 3, 4.



*Allowable Subject Matter*

Claims 6-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 6 contains allowable subject matter because the prior art of record does not teach or suggest the combination set forth and including: pick up unit comprising a support member rotatably mounted around a vertical axis on a support structure in order to pick up and rotate the thermoformed objects 180° degrees. The prior art of Fabrig and Narinskii show a pick up unit which rotates the object 180° in a horizontal axis, and does not show a support member rotatably mounted around a vertical axis on a support structure. It would not have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventions of Fabrig and Narinskii such that a support member is mounted around a vertical axis on a support structure as shown by the applicant, so that the object is rotated 180° in a vertical axis on a support structure.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bishop reference shows a turning of an object before stacking, but the turning means does not rotate 180° but rather 90°. The DelDuca reference discloses an apparatus which rotates and stacks thermoformed objects. Loach and Tokunaga references rotate and stack, albeit for non-thermoformed objects. Seragnoli shows in Fig. 2 rotation of 180° before stacking, but all of the objects are rotated 180°. The reference as disclosed by Focke, shows rotation of objects prior to stacking. Osti, Ripple and Nannini disclose rotation of objects. Kontz show stacking from the bottom of thermoformed objects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kwon whose telephone number is 1-703-305-5310. The examiner can normally be reached on Monday - Friday, 8 a.m. - 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 1-703-308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-308-0552 for regular communications and 1-703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-1113.

MJK  
January 13, 2003



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